S.B. CIVIL WRIT PETITION NO.2338/1998

National Insurance Company Limited
vs.
Veer Singh and others.

Date : 21.3.2005

HON'BLE MR. PRAKASH TATIA, J.

Ms.Meenakshi Maheshwari for Mr.S.Johari, for petitioner

Mr. H.S. Sandhu) for the respondents.
Mr. M.L. Garg)
Mr. J.K. Bhaiya)

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Heard learned counsel for the parties.

The Motor Accident Claims Tribunal vide order dated 7.11.1997 rejected the petitioner's application for taking on record supplementary pleadings on the ground that the petitioner in para 8 of the reply admitted that Heeralal was driver and now the petitioner seeks permission to take a plea by which the petitioner wants to submit that Heeralal had no valid driving license. The learned Tribunal observed that the petitioner cannot be permitted as it will be contrary to the stand taken by the petitioner.

The order dated 7.11.1997 is perse illegal in view of the fact that the Tribunal proceeded absolutely under misconception of law. Admitting Heeralal as driver of the vehicle and thereafter saying that he had no valid driving license is not withdrawal of the admission by the petitioner rather the stand is taken

in sequence and continuation of the plea taken by the petitioner because of the simple reason that normally after admitting the person as driver, one can take a plea that he was driver and at the relevant time, he had no valid driving license.

In view of the above, this writ petition is allowed, the order dated 7.11.1997 is set aside and the petitioner is permitted to place on record the supplementary pleadings as prayed.

Since the matter is old one, therefore, the Tribunal is directed to decide the claim petition expeditiously.

(PRAKASH TATIA), J.

S.Phophaliya